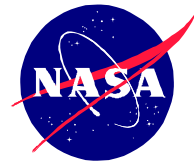


National Aeronautics and
Space Administration

Office of Inspector General
Headquarters
Washington, D.C. 20546-0001



Reply to Attn of: W

January 29, 2001

TO: A/Administrator

FROM: W/Inspector General

SUBJECT: Assessment of the Use of Support Service Contractors at the Glenn
Research Center, G-99-017

The Office of Inspector General reviewed the use of support service contractors at Glenn Research Center (Glenn). We undertook this assessment because we had reason to believe that many organizations at Glenn do not maintain adequate separation of the functions performed by civil servants and contractors. Performance by contractors of personal services and/or inherently Governmental functions is prohibited. These prohibitions exist to prevent Agencies from circumventing civil service hiring ceilings and to prevent an unacceptable transfer of official responsibility from Executive Branch Officers and employees to government contractors. NASA has historically relied heavily on outside contractors for its mission success. The Agency must continue to take steps to properly balance the need for outsourcing significant portions of its mission requirements and comply with regulations related to management of these contracts. We believe that this balance is best achieved by establishing adequate separation of the tasks performed by civil servants and contractors.

Glenn relies heavily on contractors to achieve its mission. At the end of Fiscal Year 1999, 44 percent of the estimated 3,564 individuals working on the Center were contractor personnel. Glenn has experienced attrition of highly qualified civil servant staff in all functional areas for more than 15 years. Restrictions on civil servant staffing levels have severely limited the Center's ability to hire new civil servants to backfill many of these positions. In order to accomplish their mission, most Glenn organizations began contracting out functions previously assigned to civil servants, regardless of the nature of the work. In many Glenn organizations, contractors have become an integral part of the organization, sitting side by side with civil servants.

Glenn management has outsourced large segments of their general administrative support services for more than 15 years based on a determination that such support was not core to the Center's mission. As a result, Glenn incrementally transitioned the majority of these tasks from civil servants to contractors. This type of service must be managed with extreme care to avoid creating prohibited employer-employee relationships resulting in

civil servants exercising relatively close, continuous supervision and control over contractor employees. We found that there is very little difference between contractors and civil servants providing these secretarial type functions. We believe that the manner in which these functions are being administered at Glenn leaves the Agency vulnerable to violations of several government regulations. We recommended that Glenn address this problem by establishing “pools” clearly separating contractors from civil servant personnel performing these functions. We also recommended that Glenn management assess the appropriateness and necessity of the general administrative support being outsourced at the Center. Where the work can not be properly restructured, contracted positions should be converted to civil servant positions if necessary.

The Federal Acquisition Regulations (FAR) lists 6 descriptive elements to be used as a guide in assessing whether a contract is personal in nature. During our assessment, we reviewed four of Glenn’s largest cost reimbursable support service contracts and found that each contained the FAR elements of a personal service contract. Based on these findings, we are concerned about some aspects of the structure of on-site support service contracts at Glenn. We recommended that the Glenn Center Director establish and implement a plan to review and better define Glenn’s contracting needs, eliminating any effort that falls within the definition of personal services. We also recommended that the Glenn Center Director annually familiarize the Glenn workforce regarding proper communication and interaction between civil servants and contractors.

While NASA management concurred with all nine of our recommendations (See Appendix C of the report), nevertheless, we are working with Glenn management so that their proposed actions are more responsive.

[Original signed by]

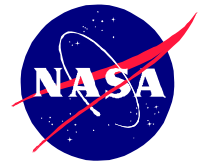
Roberta L. Gross

Enclosure:

Use of Support Service Contractors at the Glenn Research Center, G-99-017

National Aeronautics and
Space Administration

Office of Inspector General
Headquarters
Washington, D.C. 20546-0001



Reply to Attn of: **W**

January 29, 2001

TO: Glenn Research Center at Lewis Field
Attn: 0100/Director

FROM: W/Assistant Inspector General for Inspections, Administrative
Investigations, and Assessments

SUBJECT: Use of Support Service Contractors at the Glenn Research
Center, G-99-017

NASA's Glenn Research Center (Glenn) relies heavily on contractors to achieve its mission. At the end of Fiscal Year 1999 (FY 99), 44 percent of the estimated 3,564 individuals working on the Center were contractor personnel.¹ Pressure is rising for Government agencies to increase their outsourcing requirements. Public Law 105-270, Federal Activities Inventory Reform Act of 1998 (the FAIR Act), is intended to compel Federal agencies to identify and make available as many opportunities as possible for outsourcing activities previously done by civil servants. In addition, earlier this year, the Administrator of the National Aeronautics and Space Administration (NASA) announced a new initiative to hire a larger portion of nonpermanent employees through the use of such hiring mechanisms as term and temporary appointments and Intergovernmental Personnel Act assignments. The initiative is expected to result in the increased use of outside contractors, including temporary help services, experts, and consultants by the Agency.

Nevertheless, Federal regulations and legislation continue to place constraints on how agencies procure services using contracted sources.² Performance by contractors of personal services and/or inherently governmental functions continues to be prohibited. NASA needs to properly balance the two seemingly conflicting goals of increased outsourcing and compliance with regulations. We undertook this assessment because we had reason to

¹ Because many contracts are now fixed price or performance based, the statistical data identifying the number of on-site support contractors is no longer collected by the Office of Procurement. The number provided to us by the Glenn Personnel Office for on-site contractors at the end of FY 99 was only obtained after a time consuming effort to assemble the information for the purposes of this report.

² Appendix A contains a synopsis of legislation, regulations, and policies related to the appropriate use of contractors by the Government and the applicability of this guidance to NASA.

believe that many organizations at Glenn do not maintain adequate separation of the functions performed by civil servants and contractors.

I. BACKGROUND

The NASA Office of Inspector General (OIG) reviewed the use of support service contractors at the Glenn.³ Prior OIG audits also identified concerns over NASA's use of contractors.⁴ Our latest review found that Glenn's practices regarding support service contractors run counter to the intent of several Government regulations. We recommend that Glenn institute changes to establish and maintain the necessary functional distinction between civil servants and support service contractors, grantees, and other non-civil servants funded by NASA (hereafter all three are referred to as contractors). We also recommend that Glenn change its current practices with regard to its use of support service contractors for general clerical, administrative, and secretarial support (hereafter referred to as general administrative support).

In the past, NASA has been cited for failure to maintain proper separation between the functions performed by contractors and civil servants. In 1967, the Civil Service Commission's Office of General Counsel issued the *Pallerzi* opinion—one of the earliest and most comprehensive efforts to define relationships between Federal and contractor employees. This opinion was issued in response to allegations that NASA was exploiting its contracting authority to acquire *de facto* employees.⁵ FAR Part 37.104, *Personal Services Contracts*, derives from the *Pallerzi* opinion and identifies the same well-established criteria still used to determine whether a contract constitutes personal services.⁶ As discussed

³ Office of Federal Procurement Policy (OFPP) Letter 93-1, *Management Oversight of Service Contracting*, encourages Inspectors General to conduct assessments of support service contracting.

⁴ Previous OIG audits examining NASA's use of contractors include: *Review of Selected Aspects of Contractor Labor Provided to Space Station*, dated February 21, 1990; *Final Report on Labor Floorchecks of On-site Contractor Employees*, (A-GO-90-006), March 23, 1992; *Contract for Technical Support Services at Langley*, (LA-93-003); and *Moving Support Service Contractors On-Center at Langley*, (LA-96-001 and LA-96-004), March 13, 1996, and July 25, 1996.

⁵ The Civil Service Commission, predecessor to the Office of Personnel Management (OPM), found that contracts at the Goddard Space Flight Center (Goddard) were in violation of Government personnel laws. The contracts in question were described as cost-plus-award fee contracts for scientific, engineering, design, and fabrication services to be provided on site at Goddard. The contracts called for a specified number of direct labor man years to be provided by the contractor with average monthly rates of effort specified. Key personnel, mainly contractor supervisors, were named in the contract and had to meet the approval of Goddard officials and could not be reassigned or transferred without permission of the Agency. The statement of work in the contracts was general in nature and the Agency ordered individual tasks to be performed by the contractor. The contractor employees worked on site as integral adjuncts of Goddard organizational units. Many had worked in the same jobs for a number of years even though they had changed contractors. (Source: Federal Personnel Manual Letter 300-8, *Contracting for Personal Services*, December 12, 1967.)

⁶ A personal service contract is a contract that creates an employer-employee relationship between the Government and the contractor's personnel. The Government is normally required to obtain employees by direct hire under competitive appointment or other procedures required by the civil service laws. Unless

below, we have determined that there is cause for concern over the structure of Glenn's on-site support service contracts since they generally meet the *Pallerzi* criteria for personal services contracts.⁷

II. OVERALL USE OF SUPPORT SERVICE CONTRACTORS AT GLENN

A. Effects of Downsizing

Glenn has experienced attrition of highly qualified civil servant staff in all functional areas for more than 15 years. Restrictions on civil servant staffing levels have severely limited the Center's ability to hire new civil servants to backfill these positions.⁸ In order to accomplish their mission, most Glenn organizations began contracting out functions previously assigned to civil servants, regardless of the nature of the work. According to several NASA officials, the decision of whether a function should be performed by a civil servant or a contractor is not based solely on the nature of the work. Instead, the decision of whether to contract out a function is highly dependent upon whether there are sufficient civil servant position billets available to fill the job. For example, in 1995, one position at Glenn was determined by NASA Headquarters Office of Safety and Mission Assurance to be so critical that it should only be filled by a civil servant. However, a contractor continued to perform the function until late 1999 because no civil servant billets were available to perform the function. When the competitive placement was finally conducted, the incumbent contractor employee applied and was selected for the job.

This approach to staffing may violate Office of Management and Budget (OMB) Circular A-76, which prohibits the conversion of functions from the Government to a commercial contractor solely to avoid personnel ceilings or salary limitations. Many organizations are currently composed of a mixture of co-located⁹ civil servants and contractors performing similar tasks to accomplish the organization's mission. On-site, co-located contractors now support virtually all but the most senior management organizations at Glenn.

Congress specifically authorizes acquisition of the services by contract, obtaining personal services by contract rather than by direct hire circumvents those laws. NASA does not possess the authority to enter into personal service contracts. (Source: Federal Acquisition Regulation (FAR) 37.104, *Personal Services Contracts*.)

⁷ Our review of Glenn's use of support service contractors resulted in some findings and recommendations applicable across the Agency. We have issued these findings and recommendations in a separate report entitled, *Agencywide Use of Support Service Contractors at NASA*, G-00-016.

⁸ This "human capital issue" is being experienced Governmentwide. An article in the March 2000 issue of *Government Executive* magazine, titled *Human Capital: The Missing Link*, addresses this problem, stating in part, "...[I]n hindsight, agencies see that buyouts and reductions in force were done largely without planning, so that in many cases they lost some of their best employees and now don't have the skills they need on board."

⁹ For the purposes of this report, the term co-located refers to situations where civil servants are sharing the same office space (sitting side-by-side) with little or no physical separation between them.

B. Lack of Differentiation Between Civil Servants and Contractors

Our assessment revealed that in many Glenn organizations, contractors and civil servants perform essentially the same functions, each working with a varying degree of independence. This is the result of replacing civil servants with contractors as vacancies arise, without making an assessment of whether it is appropriate for the function to be outsourced. We were repeatedly told that on-site contractors are an integral part of the functional operations of many offices. Most of the contractors we interviewed informed us that they have worked at Glenn in the same position for many years, both for their current employer, and for predecessor contractors. On a day-to-day basis there is little physical separation between contractors and civil servants who share the same office space. Others sit in separate office space within the organization they support. The current workspace consolidation efforts underway at Glenn may increase the co-location of contractors and civil servants.¹⁰

Most civil servant and contractor employees interviewed told us that unless they are already familiar with a person, the only way they can distinguish between contractors and civil servants is to look at the type of identification badge the person is wearing. Also, distinguishing between civil servants and contractors when communicating either telephonically or electronically is very difficult.¹¹ Including contractor affiliation in telephone directories is standard practice at all NASA Centers. However, no such identification is readily provided in e-mail addresses assigned to NASA contractors using NASA e-mail systems.

FAR Part 11.106, *Purchase Descriptions for Service Contracts*, addresses how purchase descriptions (statements of work or requirements definitions) for service contracts are to be developed. This section of the FAR states the following:

[P]urchase descriptions shall require proper identification of contractor personnel who attend meetings, answer Government telephones, or work in situations where their actions could be construed as acts of Government officials unless, in the judgement of the Agency, no harm can come from failing to identify themselves.

Our assessment indicates that this FAR requirement may not be given full consideration when developing purchase descriptions for service contracts at Glenn.

¹⁰ According to FAR 37.104, *Personal Services*, four of the six elements used to assess whether an effort constitutes personal services: performance on site, principal tools and equipment furnished by the government, services are applied directly to the integral effort of the Agency or an organizational subpart in the furtherance of its assigned function or mission, and the need for the type of service provided can reasonably be expected to last beyond one year, are represented here.

¹¹ NASA's Dryden Flight Research Center (Dryden) instituted a policy that requires contractors to identify their company affiliations when answering the telephone.

Recommendation 1: The Glenn Center Director should issue a policy to minimize the co-location of contractors and civil servants. Contractors should be separated into clearly distinguishable office space. Absent substantial excess Center facility space, placing contractors off-site should also be encouraged. This requirement should be incorporated into all future space planning activities, including the space consolidation project currently underway. Any exception to this requirement should receive the approval of the Procurement Officer and the Facilities Manager.

Recommendation 2: The Glenn Center Director should institute a policy requiring on-site contractors to state the name of their company when answering telephones and include their company name in the signature portion of e-mail messages.

Recommendation 3: The Glenn Procurement Officer should reiterate the requirements of FAR Part 11.106 with the Contracting Officers and Contracting Officer's Technical Representatives (COTR's) who develop purchase descriptions for service contracts.

C. Personal Services and/or Inherently Governmental Functions

Another common contracting practice at Glenn is the re-employment of ex-civil servants as contractors, subcontractors, or consultants. We identified 12 retired Glenn civil servants currently or previously employed under the four contracts we reviewed (others may be employed under other Glenn contracts). These civil servants-turned-contractors were either employed directly by a prime contractor or as a subcontractor.¹² We interviewed four of these former civil servants and found that three are currently, or likely will be, supporting the same Glenn organization that they left when they retired. Many of the people we interviewed consider the use of former civil servants to be the most practical means of accomplishing their mission. Interviewees indicated that such arrangements were commonplace. When these individuals return to functions related to the efforts they previously supported, there is a perception of favoritism, and in some cases, conflicts of interest may exist.¹³

¹² The requirements for competition imposed on contractors are less strict than those placed upon the Government. As a result, many civil servants looking to direct work to a particular source find a way to get their prime contractors to provide it for them through a subcontract, usually through a narrowly defined task that purposely precludes competition. All six of the subcontractors we identified appeared to have been awarded without competition. One civil servant, who has a subcontractor supporting his organization under a sole source arrangement for 9 years, stated that he believes the only way to obtain the support of a specific individual was through a directed, sole source subcontract. His understanding was that Glenn's procurement organization would not be willing to award a separate contract for such requirements.

¹³ One former Glenn civil servant we interviewed who retired in late 1999 informed us that he received legal approval to do a small amount of consulting work for a particular contractor prior to leaving the civil service. Now that he is retired, this individual stated that he intended to expand his consulting activities through this same contractor. Just prior to retiring, the civil servant was heavily involved in the decision to award a sole source subcontract valued at approximately \$300,000 to this same contractor.

Two of the four former civil servants interviewed are performing functions that border on inherently governmental.¹⁴ Both individuals claim to be advising, not representing, the Agency. However, they are performing such high level functions that at a minimum they may give the appearance of performing inherently governmental functions. Among other duties, one of these individuals is significantly involved in negotiating Space Act Agreements on behalf of the Agency and the other is assisting with the development and implementation process of a long term Space Program Plan for Glenn. Both of these efforts lasted much longer than a year¹⁵ and are expected to continue into the future.¹⁶

FAR Part 37.104, *Personal Services Contracts*, lists descriptive elements to be used as a guide in assessing whether an effort is personal in nature.¹⁷ These descriptive elements are to be used as a guide in making an assessment of whether a contract represents personal services effort. The following table lists the six criteria provided in the FAR and our related findings at Glenn. Based upon these findings, we are concerned about the structure of on-site support service contracts at Glenn.

¹⁴ An inherently governmental function is a function so intimately related to the public interest as to mandate its performance by Government employees. Inherently governmental functions include those activities that require either the exercise of discretion in applying Government authority or making value judgments in making decisions for the Government. Governmental functions normally fall into two categories: (1) the act of governing, namely, the discretionary exercise of Government authority; and (2) monetary transactions and entitlements. Contractors should not be hired to perform inherently governmental functions. (Source: FAR Part 7.5 and OFPP Letter 92-1, *Inherently Governmental Functions*.)

¹⁵ One of the six elements used to assess whether an effort constitutes personal services cites, “[t]he need for the type of service provided can reasonably be expected to last beyond one year.”

¹⁶ When asked, the Contracting Officer for the contract in question did not recall the existence of either task under the contract. Whether these efforts were even within the scope of this contract is questionable.

¹⁷ These six elements are the same elements used by the Comptroller General to determine whether a personal services relationship exists (Comptroller General Decision B-194970, *Manpower Temporary Services – Purchase Orders for Typing Services*, July 3, 1979). (Source: Memo entitled, *Avoiding Personal Services Contracts in Contracting for Clerical Services*, from Goddard Chief Counsel to Director of Human Resources, dated March 23, 1998.)

FAR 37.104 Elements Suggesting Personal Services are Occurring	Glenn Contract Environment
1. Performance on site.	44 percent of the Glenn workforce is composed of on-site contractors.
2. Principal tools and equipment furnished by the Government.	Generally, NASA provides on-site contractors at Glenn with the tools and equipment they need to support NASA organizations.
3. Services are applied directly to the integral effort of the Agency or an organizational subpart in the furtherance of its assigned function or mission.	The integral nature of the work being done by Glenn's on-site contractors is reflected primarily in terms of administrative support and mid-level professional staff. Without these support contractors, many of these offices would not be able to effectively achieve their missions.
4. Comparable services, meeting comparable needs, are performed in the same or similar agencies using civil service personnel.	Comparable services are being performed by contractors and civil servants at Glenn, often side-by-side.
5. The need for the type of service provided can reasonably be expected to last beyond one year.	At Glenn, on-site contractors have been performing on-going and follow-on tasks for many years.
6. The inherent nature of the service, or the manner in which it is provided, reasonably requires directly or indirectly, Government direction or supervision of contractor employees in order to – (i) Adequately protect the Government's interest; (ii) Retain control of the function involved; or (iii) Retain full personal responsibility for the function supported in a duly authorized Federal officer or employee.	In cases where functions are wholly staffed and managed by contractors who are held fully accountable for the work being done, this is not a concern. However, where contractors are co-located within an organization that consists of a mix of civil servants and contractors, there is no way to get around at least indirect supervision by Government personnel. Such direction is given to protect the Government's interest and/or to retain control of the function. In such cases, contractors are not held fully accountable for the performance of an entire, discrete function.

During our assessment, we reviewed four of Glenn's largest support service contracts. The descriptive elements identified in FAR 37.104 were found to be present in all four contracts. Glenn contractors receive direct supervision from their own contract management team, but in order to satisfy their customers, regular interaction with the civil servants they support, is required by many on-site contractors. In such an environment, unless extreme care is taken, it is easy for inappropriate employee-employer relationships to be created. We believe that the potential for such situations to develop is high at Glenn, particularly given the structure of the co-located contracts at the Center.

Recommendation 4: The Glenn Procurement Officer should specifically review the ongoing support contracts. In particular, Glenn should closely review tasks involving the negotiation of Space Act Agreements and the development and implementation of a long term Space Program Plan to determine whether they are in violation of OFPP Letter 92-1

and FAR Part 7.5. If found in violation, these activities, as they are currently being performed, should be halted.

Recommendation 5: The Glenn Center Director should establish and implement a 2-year plan to review and better define Glenn’s contracting needs, eliminating any effort that falls within the definition of personal services or inherently governmental functions. In conjunction with FAIR Act compliance activities, the plan should identify and provide for separation of commercial functions suitable for performance by contractors.

D. Current Policies and Procedures to Avoid Improper Work Relationships at Glenn

One standard way to mitigate improper interactions between civil servants and contractors is to provide written directions (work instructions or task orders) of the activities the contractor is responsible for performing. While this means of disseminating work assignments is being used at Glenn, several interviewees stated that using such mechanisms for many immediate tasks is impossible. As a result, verbal direction from civil servants to contractors occurs regularly.

Another common way that NASA tries to minimize interaction and direction of contractors is to involve the contractor manager(s) in most communications between on-site contractors and their civil service counterparts. These managers spend a significant portion of their time meeting with NASA management to determine the customer’s needs, then disseminating this information to their staff. This intermediary function represents added overhead that could be reduced if the functions performed by contractors were clearly defined and physically separated. Many of the functions currently being performed on-site could be performed off-site or through the use of service pools¹⁸ if the entire function were outsourced to a commercial firm. Thus, the contractor would assume full responsibility for their work product – a concept that is emphasized in Performance Based Contracting.

Glenn management is aware of the potential for inappropriate working relationships to develop at the Center. During our assessment, we were informed of several recent incidents relating to improper management of contractors by civil servant personnel. According to our interviews, management took corrective action and counseled the individuals involved for overstepping their positions. In a proactive effort to address this issue, the Glenn Center Director gave a presentation to COTR’s that emphasized the need for diligence in this critical area.¹⁹ These individuals receive similar instruction through mandatory procurement and COTR training and annual ethics courses. Based on our interviews, we believe civil servants and contractors working on-site at Glenn would benefit greatly from this type of

¹⁸ Service pools, are set up to perform distinct functions. Examples of service pools might include a typing pool, copy center, or clearly defined accounting, personnel, legal, or procurement clerical functions.

¹⁹ On September 2, 1999, the Glenn Center Director made a presentation titled, “Appropriate Communications and Interactions with Contractors” (See Appendix B).

training. By providing the same training to everyone in a uniform manner, both civil servants and contractors would be operating from the same set of rules.

Recommendation 6: The Glenn Center Director should annually familiarize the Glenn workforce regarding proper communication and interaction between civil servants and contractors. Center resources such as newsletters, web sites, and presentations such as the one found in Appendix B could be used to facilitate dissemination of this information.

III. SOME USE OF GENERAL ADMINISTRATIVE SUPPORT CONTRACTORS AT GLENN IS IMPROPER

Many Government agencies are beginning to acquire contractor support for general administrative support services because of Government-wide staffing reductions for these functions.²⁰ Perhaps more than any other contracted function, this type of service contract must be managed with extreme care to avoid creating employer-employee relationships which result in civil servants exercising relatively close, continuous supervision and control over the contractor personnel performing the contract (i.e., personal services). NASA must develop effective ways of obtaining this type of contractor support, while still ensuring adherence to established regulations. The most effective way to ensure that proper relationships are maintained is to separate contractors from the civil servants they serve and tasking the contractors to perform discrete functions requiring only general oversight.

Glenn management has outsourced large segments of their general administrative support services for more than 15 years based on a determination that such support was not core to the Center's mission. As a result, Glenn incrementally transitioned the majority of these tasks from civil servants to contractors.²¹ Outsourcing these services allowed the Center to use its limited civil servant positions to obtain scientific and engineering expertise. Many of the contractor general administrative support staff at Glenn have been employed at the Center for many years. Most are co-located with civil servants and perform essentially the same functions as their civil servant counterparts.

²⁰ An article in the October 1999 issue of *Government Executive* magazine, titled "Goodbye Government Girl," states in part, "The number of workers in the four Federal clerical classifications fell from 188,779 in 1993 to 143,965 in 1997, a drop of nearly 45,000 jobs."

²¹ We estimate that at the end of FY 99, Glenn had 75 civil servants and 98 contractors performing general administrative support functions. We used statistics from the NASA Office of Human Resources and Education Database to identify the number Glenn civil servants performing selected functions as of September 30, 1999. We obtained the contractor statistics from Cortez III, the contractor responsible for these services at the end of FY 99. Only those contractors performing general administrative functions were included in the number above. Those performing specific/defined support, such as accounting, personnel, or procurement support were excluded from these statistics.

The contract which provides general administrative support services to Glenn is not administered through the Office of Human Resources.²² Interpretation and enforcement of OPM regulations is a primary function of human resource offices. Manpower planning is also a primary responsibility of such organizations. Other NASA Centers with contracts for general administrative services have established oversight for general and administrative support contracts within the Office of Human Resources. We believe that making the Office of Human Resources responsible for the administration of general and administrative support services will result in more effective control of these services and better compliance with OPM regulations.

Co-locating general administrative support contractors with civil servants on a continual basis also runs counter to the intent of the OPM regulations contained in Title 5, Code of Federal Regulations, Sections 300-501, et seq., *Use of Private Sector Temporaries*. This OPM regulation was established to prevent circumvention of controls on employment levels, to avoid personal service contracts, and to preclude the use of contractors for inherently governmental functions. The regulation imposes a time limit of 120 workdays (an Agency may extend this limit by an additional 120 workdays, if necessary) on the use of private sector temporaries. The type of services being provided under Glenn's contract for general administrative support services is the type of work intended to be subject to the restrictions of this regulation.²³ When obtaining general administrative support through long-term contracts, OPM officials recommend establishing service pools to perform discrete administrative functions, such as those delineated in Circular A-76.²⁴

OMB Circular A-76, which establishes policy regarding the performance of functions to be performed by commercial entities, contains a representative listing of commercial activities considered acceptable for outsourcing. This representative list is not all inclusive, but contains many of the most common types of commercial services. All the functions identified in the Circular are of a discrete, fully separable nature (e.g., library operations, stenographic recording and transcribing, word processing/data entry/typing services,

²² Contract NAS3-99179 is a Cost Plus Incentive Fee contract awarded to InDyne, Inc. on June 29, 1999. This facilities support service contract has a potential value of \$98.8 million if all five years of performance are exercised. Currently, the contract is in its second year of performance. This contract, which provides a wide range of services, including: logistics, imaging, technical publication, metrology, library, and administrative and clerical support, is administered by the Logistics and Technical Information Division at Glenn.

²³ Other Government officials, both inside and outside NASA, in the fields of procurement, legal, and personnel, share our interpretation of the intent of this regulation. In particular, two OPM officials in the Office of General Counsel and the Office of Staffing Reinvention confirmed that continual use of co-located contractors performing multiple support tasks would violate the intent of this regulation.

²⁴

mail/messenger, translation, etc.). For this reason, those activities are considered to be appropriate for outsourcing because their operation can be easily contracted out in its entirety either off-site through a service pool arrangement or at the Government facility obtaining the support. For example, a word processing pool or library services could be contracted out in their entirety. Not only would this approach comply with Circular A-76, but it would also support the tenets of Performance Based Contracting, which require making contractors fully accountable for the supplies and services they provide to the Government.

By contrast, Glenn is obtaining support for office and administrative services by having contractors perform a myriad of general administrative services. These contractors, like the civil servant secretaries they sit next to, perform multiple, non-discrete tasks. While the contractors may not be referred to as “secretaries” they perform essentially the same functions (e.g., sorting mail, typing taking notes, entering timecards, making copies, answering phones, filing, etc.). There is little, if any, differentiation between the function performed by contractor and civil servant administrative support staff. By allowing this form of general administrative support service to exist, Glenn appears to be in violation of the intent of OMB Circular A-76.

Glenn’s reliance on contractors for these integral support functions is evident. A few years ago, Glenn management attempted to separate the contractors providing its general administrative services by establishing service pools. This initiative, which is considered to be in compliance with the regulations referenced above, was eventually cancelled. While the approach was effective in some of the smaller organizations, such as personnel, procurement and legal, it was not successful within the larger technical organizations. As a result, general administrative support contractors were reintroduced into most Glenn organizations and are again co-located with civil service personnel.

Lastly, the manner in which Glenn is managing its general administrative support contract may increase its vulnerability to equal employment opportunity complaints. NASA issued implementing instructions for recently issued EEOC guidance, *Application of the Equal Employment Opportunity Laws to Contingent Workers Place by Temporary Employment Agencies and Other Staffing Firms*. These implementing instructions state that, “employees of NASA contractors, grantees, or other recipients of NASA financial assistance as well as individuals working at NASA through temporary staffing firms may, under certain circumstances, be able to pursue complaints of discrimination against the Agency and its officials.”²⁵

Recommendation 7: The Glenn Personnel Office should be included in the review process for determining the appropriateness and necessity of all future hiring needs of general administrative contractor support. Furthermore, consideration should be given to establishing a separate Task Monitor within the Office of Human Resources to provide oversight of the general administrative contractor support.

²⁵ Memorandum entitled, *Agency Implementing Instruction on Contingent Workers*, dated August 31, 1999.

Recommendation 8: The Glenn Center Director should institute a policy that:

- (1) Institutionalizes the use of service pools for defined general administrative functions.
- (2) Limits the use of co-located contractors to temporary critical needs for periods of no more than 120 continuous workdays (an additional 120-day extension is permitted on an exception basis).

Recommendation 9: The Glenn Personnel and Procurement Officers should jointly assess the appropriateness and necessity of the general administrative support being provided at Glenn. Contracted positions should be converted to civil servant positions when the work cannot be properly restructured per recommendation 8.

IV. SUMMARY OF NASA MANAGEMENT RESPONSE

Glenn management concurred with all 9 of our recommendations and provided planned actions, action officials, and completion dates (see Appendix C). The planned actions are generally responsive to our recommendations (see Evaluation of Management Response below).

Glenn management also offered some general comments about the report, stating that we placed too much emphasis on the 1967 *Pallerzi* opinion, in light of subsequent case law issued in 1978 that essentially dismissed all of the *Pallerzi* factors except “supervision” of contractors by civil servants. Glenn management responded that, even for general administrative support contractor employees, civil servants do not exercise relatively continuous supervision and control over contractor employees.

V. EVALUATION OF MANAGEMENT RESPONSE

Glenn management’s responses and planned actions related to the report recommendations are generally responsive. However, we feel that Glenn management should not limit the application of recommendation 5 to contracts for services of a general administrative nature, but should apply this recommendation to all forms of support services. We are also working with Glenn management to establish a specific time limit for contractors to provide general administrative support when stationed “in outer offices of Glenn supervisors and managers” in accordance with recommendation 8.

We disagree with Glenn’s assertion that the OIG report places too much emphasis on the *Pallerzi* opinion. The reasons for citing the *Pallerzi* opinion in our report were twofold. We wanted to establish the fact that NASA Centers have historically had problems in the area of personal service contracting dating back more than 30 years.²⁶ Many of the characteristics

²⁶ OPM, in their most recent NASA oversight review issued January 1998, also referenced the *Pallerzi* opinion relative to their assessment of NASA’s personal service contracts to establish that NASA had a history of problems in this area.

that were found to be unacceptable in Goddard contracts of the 1960's (see footnote 5) are present in contracts at Glenn today. Secondly, although some of the criteria established by the *Pallerzi* opinion have been superceded by subsequent case law, the six elements that are contained in FAR 37.104 (d) (see footnote 10), which are the direct result of the *Pallerzi* opinion, still apply today.²⁷ These six elements provide a guide for assessing whether or not a contract is personal in nature. Absent this guidance, determining whether a civil servant is exercising relatively continuous supervision and control over contractor personnel becomes subjective. The six elements found in the FAR, and established as a direct result of *Pallerzi*, help to ensure objectivity in the assessment process. As noted by the table on page seven of this report, all six elements identified in FAR 37.104 (d) were found to be present in all four contracts we reviewed at Glenn.

VI. CONCLUSION

Teamwork between civil servants, industry, and academia is important to the Agency's success, but these relationships must be balanced with the restrictions of doing business as a Federal Agency. Glenn's use of on-site support service contractors illustrates a weakness in NASA contract administration, dating back to the days of the *Pallerzi* opinion. The recommendations contained in this report will resolve concerns regarding the use of on-site support service contractors at Glenn. We have conveyed similar recommendations to appropriately change Agencywide policy and guidance in a separate report titled, *Agencywide Use of Support Service Contractors at NASA*, G-00-016, to the Office of Procurement and the Office of Human Resources and Education.

[Original signed by]

David M. Cushing

²⁷ These six elements are the same elements used by the Comptroller General to determine whether a personal services relationship exists (Comptroller General Decision B-194970, *Manpower Temporary Services – Purchase Orders for Typing Services*, July 3, 1979). (Source: Memo entitled, *Avoiding Personal Services Contracts in Contracting for Clerical Services*, from Goddard Chief Counsel to Director of Human Resources, dated March 23, 1998.)

5 Enclosures:

Appendix A: Applicable Legislation, Regulation, and Policy Guidance

Appendix B: Glenn Center Director's Presentation, *Appropriate Communications and Interactions with Contractors*

Appendix C: NASA Management Response

Appendix D: Summary of Report Recommendations

Appendix E: Report Distribution

NASA Office of Inspector General Reader Survey

MAJOR CONTRIBUTORS TO THIS REPORT

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Donna Triplett, Editor

Appendix A

Applicable Legislation, Regulation, and Policy Guidance

APPLICABLE LEGISLATION, REGULATION, AND POLICY GUIDANCE

- **Equal Employment Opportunity Commission (EEOC) Enforcement Guidance Notice No. 915.002, *Application of the Equal Employment Opportunity Laws to Contingent Workers Placed by Temporary Employment Agencies and Other Staffing Firms*.** This guidance has implications regarding the manner in which NASA administers its support service contracts. NASA's Implementation Instructions for this guidance points out the Agency's historic reliance on its contractor workforce, indicating that this dependence on contractors may leave the Agency vulnerable to increased EEO complaints by contractors and other contingent workers.
- **Federal Acquisition Regulation (FAR) Part 11.106, *Purchase Descriptions for Service Contracts*.** This FAR clause applies to the drafting of contract requirements, specifications, statements of work or other purchase descriptions. It is intended to ensure that when the requiring organization drafts their contracting requirements they do not assign or appear to assign inherently governmental functions to contractors. Towards that end, this clause states in part that purchase descriptions shall require proper identification of contractor personnel who attend meetings, answer government telephones, or work in situations where their actions could be construed as acts of Government officials unless, in the judgement of the agency, no harm can come from having contractors fail to identify themselves.
- **FAR Part 37.104, *Personal Services Contracts*.** Personal service contracts create an employer-employee relationship between the government and the contractor's personnel. The government is normally required to obtain its employees by direct hire under competitive appointment or other procedures required by the civil service laws. Unless Congress has specifically authorized acquisition of the services by contract, obtaining personal services by contract rather than by direct hire circumvents those laws. NASA has not been granted this authority. This section of the FAR also identifies the well-established criteria used to determine whether a contract constitutes personal services.
- **NASA Policy Directive (NPD) 3310.1A, *Distinguishing Between Contractor and Civil Service Functions*.** This NPD addresses some broad policy issues identified in some of the previously mentioned regulations, but does not provide any additional guidance related to NASA-specific issues related to distinguishing between contractors and civil servants.
- **Office of Federal Procurement Policy (OFPP) Policy Letter 92-1 and FAR Part 7.5, *Inherently Governmental Functions*.** These regulations establish Executive Branch policy relating to service contracting and inherently governmental functions. The purpose of these policies is to assist Executive Branch officers and employees in avoiding an unacceptable transfer of official responsibility to government contractors. An inherently governmental function is defined as a function so intimately related to the public interest as to mandate its performance by government employees. These

functions include those activities that require either the exercise of discretion in applying government authority or the making of value judgments in making decisions for the government. Determining whether a function is inherently governmental is often difficult. At NASA, transfer of official responsibility is most likely to occur when a contractor's involvement in Agency functions is so extensive or the work product is so far advanced toward completion, that the Agency's ability to develop or consider options other than those provided by the contractor is restricted.

- **OFPP Policy Letter 93-1, *Management Oversight of Service Contracting*.** This Policy Letter establishes Government-wide policy, assigns responsibilities, and provides guiding principles for Executive Departments and Agencies in managing the acquisition and use of services.
- **OMB Circular A-76, *Performance of Commercial Activities*.** This Circular establishes Federal policy regarding the performance of commercial activities and was recently amended to implement the statutory requirements of the Federal Activities Inventory Reform Act (see below). The policy, as stated in the Circular, is to: (a) achieve economy and enhance productivity, (b) retain governmental functions in-house, and (c) rely on the commercial sector. However, the Circular prohibits the conversion of functions from the government to a commercial contractor solely to avoid personnel ceilings or salary limitations. Attachment A of the Circular contains a representative listing of commercial activities that may be outsourced by the government. The functions in this list can be described as discrete and easily separable from the core functions of the organization being supported.
- **Public Law 105-270, *Federal Activities Inventory Reform Act of 1998 (the FAIR Act)*.** This legislation directs Agencies to develop inventories of their commercial activities and to conduct cost comparisons to determine whether a commercial activity that is performed by a government source should instead be performed by a private-sector source. The goals of this legislation are closely related to policies previously established under Office of Management and Budget (OMB) Circular A-76. The FAIR Act is intended to compel federal agencies to perform a more disciplined analysis of their needs for civil servants and contractors by functional area.
- **Title 5, Code of Federal Regulations, Section 300-501, *et seq.*, *Use of Private Sector Temporaries*.** OPM issued this regulation to recognize the Government's requirement for temporary services for "critical needs." This regulation partially lifted the ban on use of such services that had been imposed by the *Pallerzi* decision. Prior to the issuance of this regulation, such services were impermissible. In order to prevent the establishment of employer-employee relationships between government and contractor employees, the regulation establishes a limit of 120 continuous workdays (an additional 120-day extension is permitted on an exception basis). This 120-day limitation also serves to prevent the circumvention of civil service hiring restrictions.

Appendix B

**Glenn Center Director's Presentation,
*Appropriate Communications and Interactions
with Contractors***



Appropriate Communications and Interactions with Contractors

Donald J. Campbell
September 2, 1999

Need for Special Attention

- **OIG Letter in May 1999, on Influencing Selection of Contractor Personnel**
 - Whom to Hire
 - Whom Not to Hire
- **OIG Survey of Role of Contractors and Civil Servants in August 1999**
- **Recent Contract Transitions Have Indicated Inappropriate Interactions**

Vulnerabilities

- On-site Services Performed by Many Contractors
- Contractor Work Force Often Dispersed
 - Supervision Often Geographically Distant
 - Supervision Seen Intermittently
- Civil Servants Perform Similar/Related Services
- COTR's Often Technical Experts Who Can provide Helpful Advice to Contractors, Especially New Ones
- Frequent Interactions Between Contractor and Government Employees Occur

Resulting Concerns

- Contractor Management May Look to CO/COTR's for Approvals or Direction Which is Their Responsibility
- Contractor Employees May Seek Direction on Daily Activities from the COTR
- Contractor Performance May Become Viewed as Responsibility of CO/COTR
- COTR's May Begin to Inappropriately Influence Contractor Decisions
 - Selection, Reward, and Termination of Employees
 - Subcontract Decisions

CO/COTR Roles During Contract Transitions

Do's:

- Participate in Government/Contractor Post Award Meeting
- Explain/Clarify Contract Requirements
- Respond to Contractor Technical Questions
- Facilitate the Transition
- Monitor Phase-in Plan
- Approve Required Plans

Don'ts:

- Encourage/Discourage New Contractor on Individual Hiring Decisions
- Interview or Give Assessments of Individual Candidates for Contractor Employment
- Encourage/Discourage Subcontracting Decisions

CO/COTR Roles During Contract

Do's:

- Provide/Communicate Work and Priorities to Contract Managers
- Monitor Work Performed Based on Requirements (What, Not How)
- Intervene when Safety is at Risk
- Provide Performance Feedback to Contractor Managers
- Share Issues w/Line Mgmt

Don'ts:

- Give or Prioritize Work to Individual Contractor Employees (without established structure)
- Supervise Contractor's Work or Contractor Employees
- Discipline or Reward Individual Contractor Employees (Inclusion in Group Awards Non-financially is Acceptable)

Final Comments

- Avoid Even Appearances of Improper Influence on Contractor Decisions
- Standards of Conduct on Meals and Gifts Strictly Apply
- Strive for Performance Based Contracting, Focusing on Results Not Process
- Allow Contractor Management Flexibility to Make Their Own Decisions
- Hold Contractors Accountable for Results

Appendix C

NASA Management Response

National Aeronautics and
Space Administration
John H. Glenn Research Center
Lewis Field
Cleveland, OH 44135-3191



Reply to Attn of: 0200

DEC 13 2000

TO: NASA Headquarters
Attn: W/Assistant Inspector General for Inspections,
Administrative Investigations, and Assessments

FROM: 0100/Director

SUBJECT: Use of Support Service Contractors at the Glenn Research Center,
G-99-017

In response to the Code W (D. M. Cushing) request of November 6, 2000, subject as above, we offer the following Agency response.

General Comments:

We note that the report is based largely on the "concern over the structure of Glenn's on-site support service contracts since they generally meet the Pallerzi criteria for personal services contracts." Although we agree that improvements can be made in our administration of on-site support services and are concerned with appearances, as well as, any actual violation of regulations, we do not accept the premise that our general use of support service contracts employees is improper. In our view, the OIG report places too much emphasis on the "Pallerzi Opinion," without recognizing that the importance of that 1967 opinion by the General Counsel of the Civil Service Commission, has been significantly undermined by subsequent statutory changes and case law. In Lodge 1858, AFGE v. Webb, 580 F.2d 496, 504 (D.C. Cir. 1978), the Court of Appeals for D.C. Circuit essentially dismissed all of the Pallerzi factors except "supervision":

It is critical to observe that of the six Pallerzi criteria, only one overlaps with the statute for determining whether a person is an "employee" of the United States, and that is the necessity for *supervision* [internal cites omitted]. "Supervision" is a criterion that in importance far exceeds the others.

Shortly after that case was decided, Congress passed the Civil Service Reform Act of 1978, which defined what a Federal supervisor is:

(10) “supervisor” means an individual employed by an agency having Authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment...

When determining whether a personal services contract exists, we must determine whether “contractor personnel are subject to the relatively continuous supervision and control of a Government officer or employee” (Federal Acquisition Regulation (FAR) 37.104(c)(1)).

In our judgment, even for general administrative support contractor employees, NASA civil servants do not exercise the articulated actions relative to contractor employees and do not provide relatively continuous supervision and control over contractor employees. We understand that your review did indicate that contractor employees knew who their contractor managers were and did regularly, if not frequently, communicate with them. In our judgment, receiving work assignments, even prioritized work assignments with some instructions on how to complete them, is not a violation of the FAR regulations or the Civil Service Reform Act.

It is in the spirit of trying to improve our operations that we respond to the following recommendations.

Recommendations for Corrective Action

Recommendation 1: The Glenn Center Director should issue a policy to minimize the co-location of contractors and civil servants. Contractors should be separated into clearly distinguishable office space. Absent substantial excess Center facility space, placing contractors off-site should also be encouraged. This requirement should be incorporated into all future space planning activities, including the space consolidation project currently underway. Any exception to this requirement should receive the approval of the Procurement Officer and the Facilities Manager.

GRC Response:

We concur with this recommendation.

Actions Planned, In Process, or Complete

The Glenn Center Director will issue a policy to minimize the collocation of contractors and civil servants. GRC managers will be instructed, when necessary to have contractor support in nearby Government space due to the need for frequent interaction or other requirements, to arrange for contractor employees to be in separate offices and/or space to the extent practicable, clearly labeled with the name of the contractor organization. The policy will further state that contractors employees providing office assistance should not permanently reside in outer offices of Glenn supervisors and managers. The Procurement Officer shall approve exceptions. We also note that with Civil Service personnel losses over the last several years and with improved office efficiencies, we have freed up significant Government office space that we are now using to house contractor employees, resulting in lower overall costs to the Center and Government.

Corrective Action Official: Bradley J. Baker, Procurement Officer
Projected Corrective Action Closure Date: Policy issuance by February 28, 2001

Recommendation 2: The Glenn Center Director should institute a policy requiring on-site contractors to state the name of their company when answering telephones and include their company name in the signature portion of e-mail messages.

GRC Response:

We concur with this recommendation.

Actions Planned, In Process, or Complete

The policy discussed above will include direction that on-site contractor employees shall be instructed to answer telephones by including the identification of their company and to modify their e-mail "signature" to similarly identify their employer.

Corrective Action Official: Bradley J. Baker, Procurement Officer
Projected Corrective Action Closure Date: Policy issuance by February 28, 2001

Recommendation 3: The Glenn Procurement Officer should reiterate the requirements of FAR Part 11.106 with the Contracting Officers and Contracting Officer's Technical Representatives (COTR's) who develop purchase descriptions for service contracts.

GRC Response:

We concur with this recommendation.

Actions Planned, In Process, or Complete

The Glenn Procurement Officer will communicate the FAR 11.106 requirements to all Contracting Officers and COTR's.

Corrective Action Official: Bradley J. Baker, Procurement Officer
Projected Corrective Action Closure Date: February 28, 2001

Recommendation 4: The Glenn Procurement Officer should specifically review the ongoing support contracts. In particular, Glenn should closely review tasks involving the negotiation of Space Act Agreements and the development and implementation of a long term Space Program Plan to determine whether they are in violation of OFPP Letter 92-1 and FAR Part 7.5. If these activities are found in violation as they are currently being performed, they should be halted.

GRC Response:

We concur with this recommendation.

Actions Planned, In Process, or Complete

After implementing the policies noted above, the Glenn Procurement Officer will review the contracts that provide administrative support services, to determine whether personal services are being provided or contractor employees are performing inherently Governmental functions. Relative to the first of the two specific concerns addressed in the report, we note that for almost a year, only Government employees have been involved in the negotiation of Space Act Agreements. Relative to the latter specific concern, we disagree that the activities of the contractor employee supporting implementation of a long-term Space Program bordered on inherently Governmental. The advice the contractor employee provided was principally for the development and implementation of a Space Program planning process, and definition of the elements required in a plan, not for the contents of the plan itself. Advising was the role of a Leadership Group consisting of five senior civil service GRC managers. The contract assignment, although lasting longer than a year, was always planned to have a completion date, and has been accomplished.

Corrective Action Official: Bradley J. Baker, Procurement Officer
Projected Corrective Action Closure Date: Review Completed by June 30, 2001

Recommendation 5: The Glenn Center Director should establish and implement a 2-year plan to review and better define Glenn's contracting needs, eliminating any effort that falls within the definition of personal services or inherently Governmental functions. In conjunction with FAIR Act compliance activities, the plan should identify

and provide for separation of commercial functions suitable for performance by contractors.

Recommendation 8: The Glenn Center Director should institute a policy that:

- (1) Institutionalizes the use of service pools for defined general and administrative functions.
- (2) Limits the use of co-located contractors to temporary critical needs for periods of no more than 120 continuous workdays (an additional 120-day extension is permitted on an exception basis).

Recommendation 9: The Glenn Personnel and Procurement Officers should jointly assess the appropriateness and necessity of the general and administrative support being provided at Glenn. Contracted positions should be converted to Civil Servant positions, when the work cannot be properly restructured as per Recommendation 8.

GRC Response for Recommendations 5, 8, and 9:

We concur with these recommendations as follows.

Actions Planned, In Process, or Complete

The Glenn Research Center has made major progress in defining its support service contracts more clearly as part of its plan of awarding and administering performance based (PB) contracts. In our opinion this effort has generally led to well-defined PB contracts, especially in fixed-price contracts. Contracts for security, facility maintenance, computer operations, information technology system analysis and design, and construction work are examples of well-defined, fixed-price PB contracts. We do not think there is much vulnerability in such contracts for personal services or inherently Governmental functions being performed by contractor employees. Hence, we will focus our efforts to clarify roles and eliminate possible instances of contractor performed personal services or inherently Governmental functions on those cost reimbursement contracts that provide general and administrative services. Any positions that cannot be structured as nonpersonal services shall be eliminated and converted to Civil Service positions, if still required.

As mentioned in response to Recommendation 1 above, the Glenn Center Director will institute a policy stating that normally contractor employees, when housed on-site, will reside in separate offices and/or space. The policy will allow only limited periods of collocation of such contractor employees to meet temporary critical needs.

Corrective Action Official: Bradley J. Baker, Procurement Officer
Projected Corrective Action Closure Date: Review Completed by June 30, 2001

Recommendation 6: The Glenn Center Director should ensure Civil Servants and on-site contractors receive annual training regarding proper communication and interaction between the parties. Center resources such as newsletters, web sites, and presentations, such as the one found in Appendix B, could be used to facilitate dissemination of this information.

GRC Response:

We concur with this recommendation.

Actions Planned, In Process, or Complete

While being careful not to train contractor employees, the Center agrees to annually provide training materials, easily accessible to Civil Servants and contractor employees as to proper communication and interaction among the parties.

Corrective Action Official: Bradley J. Baker, Procurement Officer
Projected Corrective Action Closure Date: February 28, 2001

Recommendation 7: The Glenn Office of Human Resources (OHR) should be included in the review process for determining the appropriateness and necessity of all future hiring needs of general administrative contractor support. Furthermore, consideration should be given to establishing a separate Task Monitor within the Office of Human Resources to provide oversight of the general administrative contractor support.

GRC Response:

We concur with this recommendation.

Actions Planned, In Process, or Complete

The Glenn Office of Human Resources shall be informed of the requests and justification for all future growth in the Center's requirements of general administrative contractor support by the COTR of our consolidated logistics, administrative, and clerical support services contract. Based on the perceived value in OHR's involvement in new requirements, the Center will determine whether to establish a separate Task Monitor in that office.

Corrective Action Official: Chief, Office of Human Resource (TBD)
Projected Corrective Action Closure Date: Review Completed by June 30, 2001

We appreciate the opportunity to review the draft report.



Donald J. Campbell

cc:

HQ/AI/D. R. Mulville
F/V.A. Novak
FM/J. W. Pizzarelle
G/E. A. Frankle
H/T. S. Luedtke
HK/J. E. Horvath
J/J. E. Sutton
JM/M. K. Tynan
R/S. L. Veneri
RS/S. M. Humphrey

Appendix D

Summary of Report Recommendations

SUMMARY OF REPORT RECOMMENDATIONS

Recommendation 1: The Glenn Center Director should issue a policy to minimize the co-location of contractors and civil servants. Contractors should be separated into clearly distinguishable office space. Absent substantial excess Center facility space, placing contractors off-site should also be encouraged. This requirement should be incorporated into all future space planning activities, including the space consolidation project currently underway. Any exception to this requirement should receive the approval of the Procurement Officer and the Facilities Manager.

Recommendation 2: The Glenn Center Director should institute a policy requiring on-site contractors to state the name of their company when answering telephones and include their company name in the signature portion of e-mail messages.

Recommendation 3: The Glenn Procurement Officer should reiterate the requirements of FAR Part 11.106 with the Contracting Officers and Contracting Officer's Technical Representatives (COTR's) who develop purchase descriptions for service contracts.

Recommendation 4: The Glenn Procurement Officer should specifically review the ongoing support contracts. In particular, Glenn should closely review tasks involving the negotiation of Space Act Agreements and the development and implementation of a long term Space Program Plan to determine whether they are in violation of OFPP Letter 92-1 and FAR Part 7.5. If found in violation, these activities, as they are currently being performed, should be halted.

Recommendation 5: The Glenn Center Director should establish and implement a 2-year plan to review and better define Glenn's contracting needs, eliminating any effort that falls within the definition of personal services or inherently governmental functions. In conjunction with FAIR Act compliance activities, the plan should identify and provide for separation of commercial functions suitable for performance by contractors.

Recommendation 6: The Glenn Center Director should annually familiarize the Glenn workforce regarding proper communication and interaction between civil servants and contractors. Center resources such as newsletters, web sites, and presentations such as the one found in Appendix B could be used to facilitate dissemination of this information.

Recommendation 7: The Glenn Personnel Office should be included in the review process for determining the appropriateness and necessity of all future hiring needs of general administrative contractor support. Furthermore, consideration should be given to establishing a separate Task Monitor within the Office of Human Resources to provide oversight of general administrative contractor support.

Recommendation 8: The Glenn Center Director should institute a policy that:

- (1) Institutionalizes the use of service pools for defined general administrative functions.
- (2) Limits the use of co-located contractors to temporary critical needs for periods of no more than 120 continuous workdays (an additional 120-day extension is permitted on an exceptional basis).

Recommendation 9: The Glenn Personnel and Procurement Officers should jointly assess the appropriateness and necessity of the general administrative support being provided at Glenn. Contracted positions should be converted to civil servant positions when the work cannot be properly restructured per recommendation 8.

Appendix E
Report Distribution

Distribution

National Aeronautics and Space Administration (NASA) Officials:

A/Administrator
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B/Chief Financial Officer
E/Associate Administrator for Equal Opportunity Programs
F/Associate Administrator for Human Resources & Education
G/General Counsel
H/Associate Administrator for Procurement
J/Associate Administrator for Management Systems
JM/Director, Management Assessment Division
K/Associate Administrator for Small and Disadvantaged Business Utilization
L/Associate Administrator for Legislative Affairs
P/Associate Administrator for Public Affairs
R/Associate Administrator for Aero-Space Technology

NASA Advisory Official:

Chairman, NASA Advisory Council

Non-NASA Federal Organizations and Individuals:

Assistant to the President for Science and Technology Policy
Deputy Associate Director, Energy and Science Division, Office of Management and Budget
Budget Examiner, Energy Science Division, Office of Management and Budget
Associate Director, National Security and International Affairs Division, General Accounting Office
Professional Assistant, Senate Subcommittee on Science, Technology, and Space

Chairman and Ranking Minority Member of each of the following Congressional Committees and Subcommittees:

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Senate Subcommittee on VA-HUD-Independent Agencies
Senate Committee on Commerce, Science and Transportation
Senate Subcommittee on Science, Technology and Space
Senate Committee on Governmental Affairs
House Committee on Appropriations
House Subcommittee on VA-HUD-Independent Agencies
House Committee on Government Reform and Oversight

House Subcommittee on National Security, International Affairs, and Criminal Justice
House Committee on Science
House Subcommittee on Space and Aeronautics

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Honorable Pete Sessions, U.S. House of Representatives

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Report: Assessment of the Use of Support Service Contractors at the Glenn Research Center, G-99-017

Please circle the appropriate rating for the following statements.

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	N/A
1. The report was clear and readable	5	4	3	2	1	N/A
2. The report was logically organized	5	4	3	2	1	N/A
3. The report was concise and to the point	5	4	3	2	1	N/A
4. The facts were presented fairly and accurately	5	4	3	2	1	N/A
5. The report contained sufficient information to support the finding(s) in a balanced and objective manner	5	4	3	2	1	N/A
6. The recommendation(s) made sense and were relevant	5	4	3	2	1	N/A
7. The recommendation(s) were timely	5	4	3	2	1	N/A

Overall, how would you rate the report?

Excellent	Fair
Very Good	Poor
Good	

How could we improve the report? _____

Are there steps we should have taken, but didn't? _____

Is there anything else we should have done differently? _____

How did you use the report? _____

Can you suggest any additional (related or unrelated) issues that the NASA Office of Inspector General should review? (You can also call our anonymous 24-hour Hotline at 1-800-424-9183) _____

Additional comments _____

Your occupation

Congressional Staff Media
NASA Employee Public Interest
Private Citizen Other: _____
Government: Federal: _____ State: _____ Local: _____

May we contact you about your comments?

Yes: _____ **No:** _____
Name: _____
Telephone: _____

Thank you for completing this survey.